

## **IC 13-18-13**

### **Chapter 13. Wastewater Revolving Loan Program**

#### **IC 13-18-13-1**

##### **Establishment**

Sec. 1. The wastewater revolving loan program is established.  
*As added by P.L.1-1996, SEC.8.*

#### **IC 13-18-13-2**

##### **Revolving loan fund; purpose; source of funds; repayments; investments; costs**

Sec. 2. (a) The wastewater revolving loan fund is established to provide money for loans and other financial assistance to or for the benefit of political subdivisions under this chapter.

(b) The general assembly may appropriate money to the fund. Grants or gifts of money to the fund from the federal government or other sources and the proceeds of the sale of:

- (1) gifts to the fund; and
- (2) loans and other financial assistance, as provided in sections 10 through 14 of this chapter;

shall be deposited in the fund.

(c) Repayments of loans and other financial assistance, including interest, premiums, and penalties, shall be deposited in the fund.

(d) The treasurer of state shall invest the money in the fund that is:

- (1) not currently needed to meet the obligations of the fund; and
- (2) not invested under subsection (e);

in the same manner as other public money may be invested. Earnings that accrue from these investments shall be deposited in the fund.

(e) As an alternative to subsection (d), the budget agency may invest or cause to be invested all or a part of the fund in a fiduciary account or accounts with a trustee that is a financial institution. Notwithstanding any other law, any investment may be made by the trustee in accordance with at least one (1) trust agreement or indenture. A trust agreement or indenture may permit disbursements by the trustee to:

- (1) the department;
- (2) the budget agency;
- (3) a political subdivision;
- (4) the Indiana bond bank; or
- (5) any person to which the department, the budget agency, or a political subdivision is obligated, as provided in the trust agreement or indenture.

The state board of finance must approve any trust agreement or indenture before execution.

(f) Except as provided in the federal Clean Water Act, the cost of administering the fund may be paid from the fund.

(g) All money accruing to the fund is appropriated continuously for the purposes specified in this chapter.

(h) Money in the fund does not revert to the state general fund at

the end of a state fiscal year.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.8.*

### **IC 13-18-13-3**

#### **Use of funds**

Sec. 3. Money in the fund may be used to do the following:

- (1) Provide loans or other financial assistance to political subdivisions for the planning, designing, construction, renovation, improvement, or expansion of wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks.
- (2) Pay the cost of administering the fund and the program.
- (3) Conduct all other activities that are permitted by the federal Clean Water Act.

*As added by P.L.1-1996, SEC.8.*

### **IC 13-18-13-4**

#### **Administration and management of program and fund**

Sec. 4. The department and the budget agency shall administer and manage:

- (1) the fund;
- (2) the program;
- (3) the supplemental fund; and
- (4) the supplemental program;

in accordance with this chapter.

*As added by P.L.1-1996, SEC.8.*

### **IC 13-18-13-5**

#### **Duties and responsibilities of department**

Sec. 5. The department shall do the following:

- (1) Manage all aspects of the program and supplemental program, except as provided under section 6 of this chapter.
- (2) Be the point of contact in relations with the United States Environmental Protection Agency, except as provided under section 6 of this chapter.
- (3) Cooperate with the budget agency in the administration and management of the program and supplemental program.
- (4) Cooperate with the budget agency in preparing and providing program information.
- (5) Review each proposed financial assistance agreement to determine whether the agreement meets the environmental and technical aspects of the program or supplemental program.
- (6) Periodically inspect project design and construction to determine compliance with the following:
  - (A) This chapter.
  - (B) The federal Clean Water Act.
  - (C) Construction plans and specifications.
- (7) Negotiate, jointly with the budget agency, the negotiable aspects of each financial assistance agreement.
- (8) If not accepted and held by the budget agency, accept and

hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.

(9) Prepare, jointly with the budget agency, annual reports concerning the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

(10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.

(11) Enter into memoranda of understanding with the budget agency concerning the administration and management of the following:

- (A) The fund.
- (B) The program.
- (C) The supplemental fund.
- (D) The supplemental program.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.9; P.L.28-2004, SEC.116.*

#### **IC 13-18-13-6**

##### **Duties and responsibilities of agency**

Sec. 6. The budget agency shall do the following:

- (1) Manage and implement the financial aspects of the program and supplemental program.
- (2) Cooperate with the department in the administration and management of the program and supplemental program.
- (3) If not accepted and held by the department, accept and hold any letter of credit from the federal government through which the state receives grant payments for the program and disbursements to the fund.
- (4) Be the point of contact with political subdivisions and other interested persons in preparing and providing program information.
- (5) Negotiate, jointly with the department, the negotiable aspects of each financial assistance agreement.
- (6) Prepare or cause to be prepared each financial assistance agreement.
- (7) Sign each financial assistance agreement.
- (8) Conduct or cause to be conducted an evaluation as to the financial ability of each political subdivision to pay the loan or other financial assistance and other obligations evidencing the loans or other financial assistance, if required to be paid, and comply with the financial assistance agreement in accordance with the terms of the agreement.
- (9) Prepare, jointly with the department, annual reports concerning the following:

- (A) The fund.
  - (B) The program.
  - (C) The supplemental fund.
  - (D) The supplemental program.
- (10) Submit the reports prepared under subdivision (9) to the governor and the general assembly. A report submitted under this subdivision to the general assembly must be in an electronic format under IC 5-14-6.
- (11) Enter into memoranda of understanding with the department concerning the administration and management of the following:
- (A) The fund.
  - (B) The program.
  - (C) The supplemental fund.
  - (D) The supplemental program.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.10; P.L.28-2004, SEC.117.*

#### **IC 13-18-13-7**

##### **Powers of agency**

Sec. 7. The budget agency may do the following:

- (1) Employ:
  - (A) fiscal consultants;
  - (B) engineers;
  - (C) bond counsel;
  - (D) other special counsel;
  - (E) accountants; and
  - (F) any other consultants, employees, and agents;that the budget agency considers necessary to carry out the purposes of this chapter.
- (2) Fix and pay the compensation of those persons employed in subdivision (1) from money:
  - (A) available in the fund or supplemental fund; or
  - (B) otherwise made available for the program or the supplemental program.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.11.*

#### **IC 13-18-13-8**

##### **Services to political subdivisions; fees**

Sec. 8. (a) The department and the budget agency may:

- (1) provide services to a political subdivision in connection with a loan or other financial assistance, including advisory and other services; and
  - (2) charge a fee for services provided.
- (b) The department and the budget agency may charge a fee for costs and services incurred in the review or consideration of an application for a proposed loan or other financial assistance to or for the benefit of a political subdivision under this chapter, regardless of whether the application is approved or rejected.
- (c) A political subdivision may pay fees charged under this

section.

*As added by P.L.1-1996, SEC.8.*

#### **IC 13-18-13-9**

##### **Priorities for recommending loans; authority to make loans**

Sec. 9. (a) The department shall use a priority ranking system to recommend loans or other financial assistance from the fund. The department shall develop the priority ranking system to achieve optimum water quality consistent with the water quality goals of the state and the federal Clean Water Act.

(b) Based on the recommendations made under subsection (a), the budget agency may make loans and provide other financial assistance from the fund to or for the benefit of political subdivisions.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.12.*

#### **IC 13-18-13-10**

##### **Prerequisites for loans or assistance**

Sec. 10. The budget agency may make loans or provide other financial assistance from the fund to or for the benefit of a political subdivision under the following conditions:

- (1) The loan or other financial assistance must be used:
  - (A) for planning, designing, constructing, renovating, improving, or expanding wastewater collection and treatment systems and other activities necessary or convenient to complete these tasks;
  - (B) to:
    - (i) establish reserves or sinking funds; or
    - (ii) provide interest subsidies;
  - (C) to pay financing charges, including interest on the loan or other financial assistance during construction and for a reasonable period after the completion of construction; or
  - (D) to pay the following:
    - (i) Consultant, advisory, and legal fees.
    - (ii) Any other costs or expenses necessary or incident to the loan, other financial assistance, or the administration of the fund and the program.
- (2) Subject to section 15 of this chapter, upon recommendation of the budget agency the state board of finance shall establish the interest rate or parameters for establishing the interest rate on each loan, including parameters for establishing the amount of interest subsidies.
- (3) The budget agency shall establish the terms and conditions that the budget agency considers necessary or convenient to:
  - (A) make loans; or
  - (B) provide other financial assistance under this chapter.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.13.*

#### **IC 13-18-13-11**

##### **Documentation**

Sec. 11. A loan or other financial assistance from the fund must

be accompanied by the following:

- (1) All papers and opinions required by the budget agency.
- (2) Unless otherwise provided by rule, the following:
  - (A) An approving opinion of nationally recognized bond counsel.
  - (B) A certification and guarantee of signatures.
  - (C) A certification that, as of the date of the loan or other financial assistance:
    - (i) no litigation is pending challenging the validity of or entry into the loan or other financial assistance or any security for the loan or other financial assistance; or
    - (ii) if litigation is pending, the litigation will not have a material adverse effect on the validity of the loan or other financial assistance or any security for the loan or other financial assistance.
  - (D) If litigation is pending, as an alternative to the certification described in clause (C), an opinion of legal counsel that the litigation will not have a material adverse effect on the validity of the loan or other financial assistance.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.14.*

#### **IC 13-18-13-12**

##### **Financial assistance agreements**

Sec. 12. A political subdivision receiving a loan or other financial assistance from the fund shall enter into a financial assistance agreement. A financial assistance agreement is a valid, binding, and enforceable agreement of the political subdivision.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.15.*

#### **IC 13-18-13-13**

##### **Sale of loans**

Sec. 13. The budget agency may sell loans or evidences of other financial assistance and other obligations of political subdivisions evidencing the loans or other financial assistance from the fund periodically at any price and on terms acceptable to the budget agency. Proceeds of sales under this section shall be deposited in the fund.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.16.*

#### **IC 13-18-13-14**

##### **Pledge of loans**

Sec. 14. (a) The budget agency may pledge loans or evidences of other financial assistance and other obligations of political subdivisions evidencing the loans or other financial assistance from the fund to secure:

- (1) other loans or financial assistance from the fund to or for the benefit of political subdivisions; or
- (2) other loans or financial assistance from the supplemental fund to or for the benefit of political subdivisions;

to the extent permitted by the federal Clean Water Act.

(b) The budget agency must approve the terms of a pledge under this section.

(c) Notwithstanding any other law, a pledge of property made by the department and the budget agency under this section or IC 4-23-21-8(e) (before its repeal) is binding from the time the pledge is made. Revenues, other money, or other property pledged and thereafter received are immediately subject to the lien of the pledge without any further act. The lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against:

- (1) the department;
- (2) the budget agency; or
- (3) the fund;

regardless of whether the parties have notice of any lien.

(d) A resolution, an indenture, or other instrument by which a pledge is created does not have to be filed or recorded, except in the records of the budget agency.

(e) Action taken to:

- (1) enforce a pledge under this section or IC 4-23-21-8(e) (before its repeal); and
- (2) realize the benefits of the pledge;

is limited to the property pledged.

(f) A pledge under this section or IC 4-23-21-8(e) (before its repeal) does not create a liability or indebtedness of the state.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.17.*

## **IC 13-18-13-15**

### **Interest rate**

Sec. 15. (a) In recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan, as provided in section 10 of this chapter, the budget agency shall recommend and the state board of finance shall establish the following:

- (1) A base or subsidized interest rate that:
  - (A) would be payable by political subdivisions other than political subdivisions described in subdivision (2) or (3); and
  - (B) may provide for the payment of no interest during all or a part of the estimated construction period for the wastewater treatment system.
- (2) A base reduced or more heavily subsidized interest rate, that:
  - (A) would be payable by political subdivisions whose median household incomes are:
    - (i) not more than the state nonmetropolitan median household income, as determined and reported by the federal government periodically; and
    - (ii) not less than eighty-one percent (81%) of the state nonmetropolitan median household income; and
  - (B) may provide for the payment of no interest during all or

a part of the estimated construction period for the wastewater collection and treatment system.

- (3) A base zero (0) or most heavily subsidized interest rate that:
- (A) would be payable on loans made to political subdivisions whose median household incomes are not more than eighty percent (80%) of the state nonmetropolitan household income; and
  - (B) may provide for the payment of no interest during all or a part of the estimated construction period of the wastewater collection and treatment system.

(b) The budget agency, in recommending to the state board of finance the interest rate or parameters for establishing the interest rate on each loan under section 10 of this chapter, shall take into account the following:

- (1) Credit risk.
- (2) Environmental enforcement and protection.
- (3) Affordability.
- (4) Other fiscal factors the budget agency considers relevant.

(c) In enacting this section, the general assembly understands that, in financing the program, the Indiana bond bank issued at the budget agency's request, and will continue to issue at the budget agency's request:

- (1) revenue bonds payable from and secured by political subdivisions; and
- (2) loan payments made by and loan payments made to political subdivisions.

It is not the intent of the general assembly to cause the budget agency or the state board of finance to establish interest rates on loans or parameters for establishing interest rates that would cause the bond bank's revenue bonds to be insecure or otherwise negatively affect the ability of the state to continue to finance the program.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.18.*

### **IC 13-18-13-16**

#### **User charges**

Sec. 16. The budget agency shall require that a political subdivision receiving a loan or other financial assistance under this chapter establish under applicable statute and maintain sufficient user charges or other charges, fees, taxes, special assessments, or revenues available to the political subdivision to:

- (1) operate and maintain the wastewater collection and treatment system; and
- (2) pay the obligations of the system.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.19.*

### **IC 13-18-13-17**

#### **Defaults; withholding payments from political subdivision; effect on validity of loan or financial assistance**

Sec. 17. (a) Notwithstanding any other law and if provided in a financial assistance agreement, any state department or state agency,

including the treasurer of state:

(1) that is the custodian of money payable to a political subdivision, other than money in payment for goods or services provided by the political subdivision; and

(2) after written notice from the budget director that the political subdivision is in default on the payment of principal or interest on a loan or evidence of other financial assistance;

may withhold payment of money from that political subdivision and pay over the money to the budget agency or the Indiana bond bank, as directed by the budget director, for the purpose of curing the default.

(b) The withholding of payment from the political subdivision and payment to:

(1) the budget agency; or

(2) the Indiana bond bank;

as applicable, may not adversely affect the validity of the defaulted loan or other financial assistance.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.20.*

### **IC 13-18-13-18**

#### **Rules**

Sec. 18. The water pollution control board and the budget agency may jointly adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this chapter.

*As added by P.L.1-1996, SEC.8.*

### **IC 13-18-13-19**

#### **Borrowing money; issuance and sale of notes; renewal or extension; maturity; compliance with statutory requirements**

Sec. 19. (a) Notwithstanding any other law, a political subdivision may borrow money from the budget agency by negotiating a loan or other financial assistance directly and without complying with requirements for the competitive sale of bonds, notes, or other obligations or evidences of indebtedness. A political subdivision shall observe any existing contractual commitments to bondholders or other persons when entering into a financial assistance agreement.

(b) Notwithstanding any other law, a political subdivision may issue and sell its notes, the principal and accrued interest on which shall be paid with proceeds from the issuance of its bonds or other available money at the time the notes are due. The notes must be issued pursuant to a resolution or ordinance and the proceeds must be used to carry out the purposes specified in this chapter.

(c) A political subdivision that issues notes under subsection (b) or IC 4-23-21-13 (before its repeal) may renew or extend the notes periodically on terms agreed to with the budget agency, and the budget agency may purchase and sell the renewed or extended notes. Accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended.

(d) The notes issued by a political subdivision under subsection (b), including any renewals or extensions, must mature:

- (1) in the amounts; and
- (2) at the times not exceeding four (4) years from the date of original issuance;

that are agreed to by the political subdivision and the budget agency.

(e) Compliance with subsection (b) constitutes full authority for a political subdivision to issue its notes and sell the notes to the department and the budget agency, and the political subdivision is not required to comply with any other law applicable to the authorization, approval, issuance, and sale of its notes. These notes are:

- (1) valid and binding obligations of the political subdivision;
- (2) enforceable in accordance with the terms of the notes; and
- (3) payable solely from the sources specified in the resolution or ordinance authorizing the issuance of the notes.

(f) If the political subdivision issues bonds, all or part of the proceeds of which will be used to pay the notes issued under subsection (b), neither:

- (1) the provisions of this section; nor
- (2) the actual issuance by a political subdivision of notes under subsection (b);

relieves the political subdivision of the obligation to comply with the statutory requirements for the issuance of bonds.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.21.*

## **IC 13-18-13-20**

### **Alternative to making loans or providing financial assistance; guarantee of obligations or bonds**

Sec. 20. (a) As an alternative to making loans or providing other financial assistance to political subdivisions, the budget agency may use the money in the fund or the supplemental fund to provide a leveraged loan program and other financial assistance programs permitted by the federal Clean Water Act to or for the benefit of political subdivisions, including using money in the fund or the supplemental fund to enhance the obligations of political subdivisions issued for the purposes of this chapter by:

- (1) granting money to:
  - (A) be deposited in:
    - (i) a capital or reserve fund established under IC 5-1.5 or another statute or a trust agreement or indenture as contemplated by IC 13-18-13-2(e); or
    - (ii) an account established within such a fund; or
  - (B) provide interest subsidies;
- (2) paying bond insurance premiums, reserve insurance premiums, or credit enhancement, liquidity support, remarketing, or conversion fees, or other similar fees or costs for obligations of a political subdivision or for bonds issued by the Indiana bond bank if credit market access is improved or interest rates are reduced; or
- (3) guaranteeing all or a part of obligations issued by political subdivisions or of bonds issued by the Indiana bond bank.

(b) The budget agency may enter into any agreements with the Indiana bond bank or political subdivisions to carry out the purposes specified in this chapter.

(c) A guarantee of obligations or bonds under subsection (a)(3) must be limited to money in the fund and the supplemental fund. A guarantee under subsection (a)(3) does not create a liability or indebtedness of the state.

*As added by P.L.1-1996, SEC.8. Amended by P.L.126-1997, SEC.22.*

**IC 13-18-13-21 Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-22**

**Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-23**

**Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-24**

**Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-25**

**Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-26**

**Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-27**

**Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-28**

**Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-29**

**Repealed**

*(Repealed by P.L.132-1999, SEC.33.)*

**IC 13-18-13-30**

**Use of funds to secure leveraged loan or other financial assistance in connection with drinking water revolving loan fund**

Sec. 30. Notwithstanding any other law, and to the extent permitted by the federal Clean Water Act and the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.), money in the fund,

together with loan repayments to be deposited in the fund, may be used to secure a leveraged loan program or other financial assistance programs established in connection with the drinking water revolving loan fund established by IC 13-18-21-2.

*As added by P.L.104-1998, SEC.2.*